

§ 780.910

trips. Drivers, drivers' helpers, loaders, and checkers perform work which is exempt. Transportation ends with delivery at the receiving platform of the place to which the fruits or vegetables are transported. (*Mitchell v. Budd*, 350 U.S. 473.) Thus, unloading at the delivery point by employees who did not transport the commodities would not be a part of the transportation activities under section 13(b)(16).

§ 780.910 Engagement in transportation and preparation.

Since transportation and preparation for transportation are both exempt activities, an employee who engages in both is performing exempt work. In referring to "the transportation and preparation for transportation" of the fruits or vegetables, the statute recognizes the two activities as interrelated parts of the single task of moving the commodities from the farm to the designated points. Accordingly, the word "and" between the words "transportation" and "preparation" is not considered to require that any employee be employed in both parts of the task in order to be exempt. The exemption may apply to an employee engaged either in transporting or preparing the commodities for transportation if he otherwise qualifies under section 13(b)(16).

§ 780.911 Preparation for transportation.

The "preparation for transportation" of fruits or vegetables includes only those activities which are necessary to prepare the fruits or vegetables for transportation from the farm to the places described in section 13(b)(16). These preliminary activities on the farm will vary with the commodity involved, with the means of the transportation to be used, and with the nature of operations to be performed on the commodity after delivery.

§ 780.912 Exempt preparation.

The following operations, if required in order to move the commodities from the farm and to deliver them to a place of first marketing or first processing, are considered preparation for transportation: Assembling, weighing, placing the fruits or vegetables in con-

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tainers such as lugs, crates, boxes or bags, icing, marking, labeling or fastening containers, and moving the commodities from storage or concentration areas on the farm to loading sites.

§ 780.913 Nonexempt preparation.

(a) *Retail packing.* Since the exemption, as expressly stated in section 13(b)(16), includes the transportation of the fruits or vegetables only to places of first marketing or first processing, packing or preparing for retail or further distribution beyond the place of first processing or first marketing is not exempt as "preparation for transportation." (*Schultz v. Durrence* (D. Ga.), 19 WH Cases 747, 63 CCH Lab. Cas. secs. 32, 387.)

(b) *Preparation for market.* No exemption is provided under section 13(b)(16) for operations performed on the farm in preparation for market (such as ripening, cleaning, grading, or sorting) rather than in preparation for the transportation described in the section. Exemption, if any, for these activities should be considered under sections 13(a)(6) and 13(b)(12). (See subparts D and E of this part 780.)

(c) *Processing or canning.* Processing is not exempt preparation for transportation. Thus, the canning of fruits or vegetables is not under section 13(b)(16).

§ 780.914 "From the farm."

The exemption applies only to employees whose work relates to transportation of fruits or vegetables "from the farm." The phrase "from the farm" makes it clear that the preparation of the fruits or vegetables should be performed on the farm and that the first movement of the commodities should commence at the farm. A "farm" has been interpreted under the Act to mean a tract of land devoted to one or more of the primary branches of farming outlined in the definition of "agriculture" in section 3(f) of the Act. These expressly include the cultivation and tillage of the soil and the growing and harvesting of any agricultural or horticultural commodities.